

DRAFT

**REAL ESTATE ACQUISITION AGREEMENT
(City of DeSoto)**

THIS AGREEMENT ("**Agreement**") dated this ____ day of _____, 2000, by and between the **KANSAS STATEWIDE PROJECTS DEVELOPMENT CORPORATION**, a public body politic and corporate and an independent instrumentality of the State of Kansas existing pursuant to Section to Section 74-8901 et seq., of the Kansas Statutes Annotated, as amended ("**KSPDC**"), **CITY OF DESOTO**, a local government subdivision of the State of Kansas ("**City**") and **THE OZ ENTERTAINMENT COMPANY**, a Delaware corporation ("**OEC**") (KSPDC, City, and OEC are sometimes hereinafter collectively referred to as the "**Parties**").

WHEREAS, the Sunflower Army Ammunition Plant, owned by the United States of America (the "**Government**"), is located on 9,065 acres, more or less, near the City of DeSoto in Johnson County, Kansas; and

WHEREAS, pursuant to the terms of Section 484(e)(3)(H) of Title 40, United States Code, KSPDC proposes to enter into an agreement with the Government to acquire all right, title and interest in and to portions of the Sunflower Army Ammunition Plant (such portions are hereinafter referred to as the "**SFAAP**"); and

WHEREAS, immediately upon the acquisition of SFAAP, KSPDC will convey title to SFAAP to OEC for economic development purposes; and

WHEREAS, OEC has represented to City that OEC intends to donate to City the Donation Property (as hereinafter defined) which shall, upon donation, be benefited by the covenant set forth in Section 9620(h)(3) of Title 42, United States Code; and

WHEREAS, in connection with the disposition of the SFAAP, and upon application by City to the United States National Park Service ("**NPS**"), the NPS disapproved a transfer to City of a public benefit conveyance consisting of certain real property and improvements contained within the SFAAP (the "**Park Parcel**"), as more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, in connection with the disposition of the SFAAP, and upon application (the "**Water Plant Transfer Application**") by City to the Federal Department of Health and Human Services ("**HHS**"), a copy of which is attached hereto as Exhibit B, the HHS has approved a transfer to City of a 100% public benefit conveyance consisting of certain real property and improvements contained within the SFAAP (the "**Water Plant Parcel**"), as more particularly described on Exhibit C attached hereto and made a part hereof; and

WHEREAS, the donation by OEC of the Park Parcel and the Water Plant Parcel (hereinafter, collectively, the "**Donation Property**") to City satisfies City's need for real property which City sought pursuant to the Water Plant Transfer Application; and

WHEREAS, but for the conveyance by OEC of the Donation Property to City, City would not release and relinquish its existing rights, if any, to acquire property contained within the SFAAP; and

WHEREAS, the Parties believe that the optimal use of the SFAAP can be achieved, while at the same time City can better accomplish its goals and missions, by executing and performing this Agreement; and

WHEREAS, the Parties acknowledge that the deed from OEC conveying the Donation Property to City shall contain certain of the restrictions, including, but not limited to, City's agreement that the Donation Property shall remain subject to and a part of the "redevelopment district" as established pursuant to KSA § 79-8921 ("**Deed Restrictions**"), the details of which appear in the Deed (as hereinafter defined).

WHEREAS, City desires to reduce or eliminate any future expenses associated with the Transfer Application and the Donation Property; and

WHEREAS, in reliance on OEC's representations that OEC will donate to City the Donation Property, City will release and relinquish all rights, however remote or speculative, that City may have to receive Donation Property from the Government including all rights, if any, obtained pursuant to the Water Plant Transfer Application; and

NOW, THEREFORE, relying on the representatives set forth above, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated into and made a part of this Agreement.

2. **Limited Obligation of KSPDC.** The parties agree that under no circumstances shall KSPDC assume responsibility or otherwise be responsible for any environmental remediation which may be required to be performed with respect to the SFAAP or any portion thereof.

3. **Conveyance of Donation Property - In General.** On the date that KSPDC obtains from the Government a conveyance of the SFAAP or the initial portion thereof, (i) KSPDC shall transfer to OEC the SFAAP or such portion thereof (the "**First Closing**"); (ii) City shall deliver a written notice in the form of Exhibit D attached hereto (the "**HHS Notice**") addressed to HHS withdrawing the Water Plant Transfer Application; and (iii) City shall deliver a written release to OEC in the form of Exhibit E attached hereto (the "**City Release**") releasing all of its rights, if any, in and to the SFAAP, other than the Donation Property (the HHS Notice and the City Release are sometimes herein collectively referred to as the "**City Release Documents**"). Notwithstanding anything set forth above, OEC's obligation to transfer the Water Plant Parcel to City is contingent upon City obtaining water rights in the Kansas River or, in the alternative, water rights in certain wells which are adjacent to the Kansas River, from the Kansas Secretary of Agriculture-Division of Water Resources. In the event City is unable to obtain such water rights, that portion of this Agreement applicable to the Water Plant Parcel shall terminate and be of no further force or effect. In connection with such water rights, OEC and KSPDC hereby agree to grant such easements as may be reasonably required by City across that portion

of SFAAP retained by OEC and KSPDC to allow for the transportation of water from the Kansas River to the Water Plant Parcel. Furthermore, OEC and KSPDC hereby agree to use their best efforts to assist City in obtaining such easements as may reasonably be required across privately owned and federal land for the transportation of water from the Kansas River to the Water Plant Parcel.

4. **First Closing Date/Expiration Date.** KSPDC shall give not less than 10 business days prior written notice (the “**Notice of First Closing**”) to City and OEC of the date that KSPDC is prepared to conduct the First Closing (the “**First Closing Date**”); provided, however, that the First Closing Date must occur within one hundred eighty (180) days after Congressional Approval (as such term is defined in that certain Memorandum of Agreement (the “**Conveyance Agreement**”) between the United States of America, acting by and through the General Services Administration and KSPDC for the Conveyance of Land and Donation Property Comprising the Former Sunflower Army Ammunition Plant, Johnson County, Kansas, dated _____, 2000) (the “**Termination Option Date**”). If the First Closing Date does not occur by the Termination Option Date, this Agreement, at the option of KSPDC or City, shall expire and this Agreement shall be null and void and City shall not be deemed to have waived any rights City might otherwise have under the Water Plant Transfer Application. City and OEC acknowledge that it is KSPDC’s intent that the First Closing Date occur on the day on which KSPDC obtains a conveyance of the SFAAP or any portion thereof from the Government and, accordingly, if necessary the date set forth in the Notice of First Closing may be reasonably adjusted so that the First Closing hereunder coincides with any changes made to the closing date for the transfer of the SFAAP to KSPDC. KSPDC shall provide prior written notice of any such adjustment to City and OEC.

5. **Final Closing Date.** The Final Closing (hereinafter defined) shall occur within three hundred seventy (370) days following the date on which the covenant set forth in Section 9620(h)(3)(A)(ii) of Title 42, United States Code will apply to the Donation Property (the “**Final Closing Date**”).

6. **Deliveries from OEC.** On the Final Closing Date (i) OEC shall deliver a quitclaim deed (the “**Deed**”), together with evidence of payment by OEC of all transfer taxes and recording fees, if any, conforming in form and substance to Exhibit F, which shall be recorded, and (ii) OEC shall be obligated to deliver to City, at the cost of OEC, a title insurance policy from Assured Quality Title Company, showing title to the Donation Property in the name of City, and insuring good and merchantable title in the name of City, free and clear of all liens, encumbrances, covenants, conditions and restrictions, except for the Deed Restrictions and such other matters which do not prohibit, impair or otherwise encumber City’s use and occupancy of the Donation Property as provided herein (the “**Final Closing**”).

7. **Failure of Conditions.** In the event that the First Closing Date shall fail to occur by the Termination Option Date, and City or KSPDC elect to terminate this Agreement, then, it is understood and agreed that, City shall not be deemed to have released any of its rights in and to the Donation Property under the Water Plant Transfer Application or otherwise.

8. **No Obligation to Acquire.** This Agreement shall not impose on KSPDC any obligation to acquire SFAAP or any portion thereof. Rather, this Agreement shall only obligate

KSPDC to convey such property to OEC in the event KSPDC obtains a conveyance of such property from the Government. KSPDC shall retain absolute discretion as to whether, when or upon what terms it may acquire SFAAP or any portion thereof from the Government. OEC and City agree that they will not in any event seek to compel KSPDC to acquire title to SFAAP or any portion thereof from the Government or seek any remedies against KSPDC for any failure of KSPDC to acquire the Donation Property.

9. **Covenants, Warranties and Representations of KSPDC.** KSPDC hereby represents, warrants and covenants, and City and OEC do rely on the following representations, warranties and covenants as follows, all of which shall survive the Closing:

(a) KSPDC has authority under Kansas law to execute and perform this Agreement, and that this Agreement and its performance does not contravene or violate any other agreement, instrument, law, ordinance, court order, or governing instrument, or cause a default thereunder, which would materially impair the obligation of KSPDC hereunder.

(b) The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of KSPDC shall be authorized to sign the same on KSPDC's behalf and to bind KSPDC thereto.

(c) In the event that the First Closing Date shall fail to occur on or prior to the Termination Option Date, and City or KSPDC elect to terminate this Agreement, City's rights, if any, to receive property at the SFAAP pursuant to the Water Plant Transfer Application is not intended to be prejudiced hereby; therefore, KSPDC will take no action which jeopardizes the rights, if any, of City to receive property at the SFAAP and will take all reasonable actions requested by City to affirm City's existing rights, if any, to the extent approved under the Water Plant Transfer Application.

10. **Covenants, Warranties and Representations of City.** City hereby covenants, warrants and represents to KSPDC and OEC as follows, and KSPDC and OEC do rely on the following covenants, warranties and representations:

(a) City warrants that it has the authority to execute this Agreement and perform the terms hereof; that this Agreement and its performance does not contravene or violate any other agreement, instrument, law, ordinance, court order or governing instrument, or cause a default thereunder which would impair the obligations of City hereunder.

(b) The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of City shall be authorized to sign the same on City's behalf and to bind City thereto.

(c) Until the earlier of the expiration of this Agreement or the First Closing Date, City agrees that it will not seek to acquire other real property in the SFAAP through NPS or HHS.

(d) City shall execute such documents as may be necessary and withdraw any applications or back-up applications (other than the Water Plant Transfer Application in accordance with this Agreement) that may be pending for property at SFAAP and will give notice to KSPDC and OEC of any matters affecting City's rights or interests with respect to the SFAAP, the Water Plant Transfer Application and City's ability to withdraw the Water Plant Transfer Application, of which City has knowledge.

11. **Covenants, Warranties and Representations of OEC.** OEC hereby covenants, warrants and represents to KSPDC and City as follows, and KSPDC and City do rely on the following covenants, warranties and representations:

(a) OEC is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. OEC is duly qualified to do business and is in good standing as a foreign corporation in the State of Kansas.

(b) OEC has the corporate power, authority and legal right to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement by OEC have been duly authorized by all necessary corporate and shareholder action. The execution and delivery of this Agreement and the consummation of the transactions herein contemplated will not contravene or violate the articles of incorporation or bylaws of OEC. This Agreement has been, and the other agreements, documents and instruments required to be delivered by OEC in accordance with the provisions hereof will be, duly executed and delivered on behalf of OEC by duly authorized officers of OEC, and this Agreement and any other documents to be delivered by OEC pursuant hereto will constitute the legal, valid and binding obligations of OEC, enforceable against OEC in accordance with their respective terms.

(c) The execution, delivery and performance of this Agreement by OEC does not and will not violate, conflict with or result in the breach of any term, condition or provision of, or require the consent of any other person under, (i) any existing law, ordinance, or governmental rule or regulation to which OEC is subject, (ii) any judgment, order, writ, injunction, decree or award of any court, arbitrator or governmental or regulatory official, body or authority which is applicable to OEC, or (iii) the articles of incorporation or bylaws or any securities issued by OEC. No authorization, approval or consent of, and no registration or filing with, any governmental or regulatory official, body or authority is required in connection with the execution, delivery or performance of this Agreement by OEC.

(d) OEC has complied with each, and is not in violation of any, law, ordinance, or governmental or regulatory rule or regulation, whether federal, state, local or foreign, to which OEC's business, operations, assets or properties is subject ("**Regulations**"). OEC owns, holds, possesses or lawfully uses in the operation of its business all franchises, licenses, permits, easements, rights, applications, filings, registrations and other authorizations ("**Authorizations**") which are in any manner necessary for it to conduct its business as now or previously conducted or for the ownership and use of the assets owned or used by OEC in the conduct of the business of

OEC, free and clear of all restrictions and in compliance with all Regulations. OEC is not in default, nor has it received any notice of any claim of default, with respect to any Authorization. None of such Authorizations will be adversely affected by the consummation of the transactions contemplated hereby.

(e) Except as otherwise disclosed on Schedule 11(e) hereto, no litigation, including any arbitration, investigation or other proceeding of or before any court, arbitrator or governmental or regulatory official, body or authority is pending or, to the best knowledge of OEC, threatened against OEC or which relates to the assets of OEC or the transactions contemplated by this Agreement, nor does OEC know of any reasonably likely basis for any such litigation, arbitration, investigation or proceeding, the result of which could adversely affect OEC, its assets or the transactions contemplated hereby. OEC is not a party to or subject to the provisions of any judgment, order, writ, injunction, decree or award of any court, arbitrator or governmental or regulatory official, body or authority which may adversely affect OEC, its assets or the transactions contemplated hereby.

(f) It is anticipated that the Kansas Department of Health and Environment (“**KDHE**”) will, as a condition of the approval by the Governor of the State of Kansas of the early transfer of SFAAP pursuant to 42 U.S.C. 9620(h)(3)(C), impose a compliance order of consent (the “**Consent Order**”) upon OEC, a copy of which is attached hereto on Schedule 11(f) and incorporated herein by reference. OEC will obtain title to the Donation Property from KSPDC and will be required to comply with all terms and conditions of the Consent Order. It is anticipated that the Consent Order will require all necessary remediation of contamination of SFAAP, including upon the Donation Property. As a signatory to this Agreement, OEC acknowledges its obligation to satisfy KDHE with respect to remediation of the Donation Property and acknowledges the right and authority of City to enforce the achievement of remediation to a standard required by KDHE for the uses contemplated by this Agreement.

(g) OEC will perform all acts required of it in this Agreement in good faith and with all deliberate speed, performing such other acts which may be reasonably necessary to carry out the spirit and intention of this Agreement.

(h) In the event that the First Closing Date shall fail to occur on or prior to the Termination Option Date, and City or KSPDC elect to terminate this Agreement, City’s rights, if any, to receive property pursuant to the Water Plant Transfer Application is not intended to be prejudiced hereby; therefore, OEC will not take any action which jeopardizes the rights, if any, of City to receive property at the SFAAP and will take all reasonable actions requested by City to affirm City’s existing rights, if any, to the extent approved under the Water Plant Transfer Application.

(i) OEC will not permit, grant or convey to any other party the right to produce, develop, convey or sell water on any of the SFAAP unless City is first permitted such right and refuses to provide the water service.

12. **Indemnification by OEC.**

(a) ***Indemnification.***

(i) ***Indemnification of KSPDC.*** OEC, for itself and its successors and assigns (hereinafter defined), does hereby agree to indemnify and hold harmless KSPDC and the officials, board members, officers, agents, attorneys, independent contractors and employees thereof (each, a “**KSPDC Indemnified Party**”), from any and all loss, costs, claims, damages or liability (including but not limited to all reasonable attorneys’ fees and litigation costs) incurred or sustained by a KSPDC Indemnified Party as a result of, or in any way related to or in defense of, any claims asserted against the KSPDC Indemnified Party based upon (A) KSPDC’s execution of and performance under the terms of this Agreement, or (B) any breach or violations by OEC of any of the terms and provisions of this Agreement, including but not limited to, any breach by OEC of any of its covenants, warranties and representations in this Agreement, unless such losses, costs, claims, damages or liability are incurred or sustained as a result of the gross negligence or willful misconduct of the KSPDC Indemnified Party.

(ii) ***Indemnification of City.*** OEC, for itself and its successors and assigns (hereinafter defined), does hereby agree to indemnify and hold harmless City and the officials, board members, officers, agents, attorneys, independent contractors and employees thereof (each, a “**City Indemnified Party**”), from any and all loss, costs, claims, damages or liability (including but not limited to reasonable attorneys’ fees and litigation costs) incurred or sustained by a City Indemnified Party as a result of, or in any way related to or in defense of, any claims asserted against the City Indemnified Party based upon (A) environmental liability arising solely as a result of environmental conditions in existence on the Donation Property at the time of its transfer to City, but only to the extent OEC or its successors and assigns have obtained one or more insurance policies which provide coverage for such environmental liability (i.e., OEC shall have no personal liability whatsoever pursuant to this Section 12(a)(ii) and furthermore, OEC shall have no obligation to indemnify City beyond its receipt of insurance proceeds for such environmental liability); or (B) any breach or violations by OEC of any of the terms and provisions of this Agreement, including but not limited to, any breach by OEC of any covenant, warranty or representation in this Agreement, unless such losses, costs, claims, damages, or liability are incurred or sustained as a result of the gross negligence or willful misconduct of the City Indemnified Party.

(b) ***Notice by Indemnified Party.*** In the event that any claims asserted against a KSPDC Indemnified Party or City Indemnified Party (an “**Indemnified Party**”) which are alleged by such party to be covered by the undertaking of OEC hereunder shall arise:

(i) The Indemnified Party shall promptly notify OEC of the assertion of any claim. Further, the Indemnified Party and its counsel shall cooperate with OEC and its counsel in the defense of any such matter.

(ii) Provided OEC has satisfied the provisions herein and provided, further, that OEC is not otherwise in default of any provision of this Agreement or the Donation Property Identification Agreement or any other related agreement which default is material or is otherwise directly related to the claim, the Indemnified Party shall not enter into any settlement of such claims without first (i) notifying OEC of such proposed settlement and (ii) obtaining OEC's approval of the same. In the event that the Indemnified Party shall settle any such claim without the approval of OEC, any financial consideration paid or liability undertaken or assumed in any such settlement shall not be the responsibility of OEC hereunder so long as: (A) OEC had promptly advised the Indemnified Party in writing that OEC was prepared to pay for the defense of such claims pursuant to Section 12(a) above; (B) OEC has sufficient financial resources, or has deposited sufficient reserves or security with the Indemnified Party to fulfill its obligations to indemnify and hold harmless the Indemnified Party hereunder; and (C) OEC was proceeding or evidenced its intent to proceed in good faith to contest such claim in accordance with its responsibilities hereunder.

(c) ***Term of Indemnification Obligation.*** KSPDC, City and OEC agree that the indemnification by OEC of the Indemnified Parties pursuant to this Agreement shall cover any claims asserted within a period of twenty (20) years from the date of the Final Closing hereunder, but such indemnification shall be extinguished and made null and void thereafter.

(d) ***Waiver of Claims Against Indemnified Parties.*** OEC on its behalf, and on behalf of its successors and assigns, does hereby waive any and all claims against the Indemnified Parties related to any losses, costs, claims, damages or liabilities (including but not limited to reasonable attorneys' fees and litigation costs) incurred or sustained by OEC by reason of any action or event (i) described in 12(a) above; (ii) arising out of the execution and performance of this Agreement, or (iii) arising out of the conveyance of the Donation Property by OEC to City, unless such losses, costs, claims, charges or liabilities are incurred or sustained as a result of the gross negligence or willful misconduct of the Indemnified Party.

(e) ***"OEC and its Successors and Assigns."*** For purposes of this Section 12, the phrase "OEC and its successors and assigns" shall mean OEC, any entity owned or controlled, directly or indirectly, by or affiliated with OEC and any other entity, whether or not owned or controlled or affiliated, directly or indirectly, by or with OEC which, in the case of any entity or person described above in this Section 12(e), shall own all or any portion of the SFAAP or operate any facilities thereon.

(f) ***As-Is.*** City agrees and acknowledges that the Donation Property is being transferred "AS-IS, WHERE-IS" with all faults and without representation or warranty with respect to physical or environmental condition, merchantability or fitness for a particular purpose and without warranty or representation whatsoever by OEC, except as specifically provided herein.

13. **Insurance.** OEC shall maintain policies of insurance in the form attached hereto as Schedule 13 for a period of twenty (20) years. OEC shall require that City be named as an additional insured in such policies.

14. **Notices.** Any notice or other communication to be given under this Agreement shall be in writing and may be given by hand delivery, or by United States certified or registered mail, by telegram or telex or by facsimile or overnight courier. Any notice shall be effective, if sent by mail, two days after deposit in the mail as aforesaid, if sent by telex, when sent and the appropriate answerback is received, and in all other cases when received. Notices shall be addressed as follows:

If to KSPDC: Mr. Kenneth Frahm, President
Kansas Statewide Projects Development Corporation
Jayhawk Tower, Suite 1000
700 Southwest Jackson
Topeka, KS 66603-3761
Facsimile: (785) 296-6810

with a copy to: Joel W. VanderVeen, Esq.
Kutak Rock
The Omaha Building
1650 Farnam Street
Omaha, NE 68102-2186
Facsimile: (402) 346-1148

If to City: City of DeSoto
33150 West 83
DeSoto, Kansas 66018

If to OEC: The OZ Entertainment Company
11845 Olympic Boulevard, Suite 695
Los Angeles, California 90064

with a copy to: Polsinelli White Vardeman & Shalton
Attn: Scott Young
700 West 47th Street, Suite 1000
Kansas City, Missouri 64112

15. **In General.**

(a) **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the internal laws, and not the choice of laws, of the State of Kansas.

(b) **Jurisdiction and Venue.** This Agreement shall be enforced in the U.S. Federal District Court for the District of Kansas or in the Johnson County, Kansas District Court.

(c) **Entire Agreement.** This Agreement (including the Exhibits hereto) constitutes the entire Agreement between the Parties governing the subject matter hereof, and supersedes any and all written and oral agreements previously agreed to covering the subject matter hereof. This Agreement may be amended only by a further written instrument signed by the Parties hereto. Neither this Agreement nor any Exhibits hereto shall create any rights of any third party and this Agreement may be amended by the Parties without liability to any third party.

(d) **Assignment.** This Agreement may not be assigned by any party hereto without the prior written consent of the other Parties; provided that this Agreement may be assigned at any time by KSPDC to a non-profit corporate subsidiary of KSPDC established pursuant to Section 74-8904(v) of the Kansas Statutes Annotated, as heretofore or hereafter amended. The obligation of OEC to indemnify KSPDC and City under Section 12 hereof may not be assigned at any time by OEC without the prior written consent of KSPDC and City. Subject to the foregoing, all of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the successors and assigns of KSPDC, City and OEC.

(e) **Section Headings.** The paragraph titles are used herein for informational purposes only, and do not alter the substantive meaning of the terms of the paragraphs.

(f) **Terms.** The terms of this Agreement shall be liberally construed in order to accomplish the intent of the Parties and the spirit of the Agreement.

(g) **Gender.** Wherever necessary herein, the singular imparts the plural and vice versa, and the masculine, feminine and neuter expressions shall be interchangeable.

(h) **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

(i) **Unenforceability.** If any provision of this Agreement is deemed unenforceable, such provision shall be narrowed in scope in order to make it enforceable; and if such provision cannot be narrowed in scope to make it enforceable, it shall be stricken from this Agreement, but the remaining terms of this Agreement shall be enforced.

(j) **Waiver.** No waiver shall be binding upon a party unless signed by the party to be bound by the waiver and such waiver shall be narrowly construed rather than being construed as a continuous and ongoing waiver.

(k) **Enforcement.** Legal fees and court costs shall be awarded to the prevailing party in any action which enforces the terms of this Agreement.

(l) **Timeliness.** Time is of the essence of this Agreement.

(m) **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals as of the date first set forth above.

CITY OF DESOTO

By _____
Its _____

KANSAS STATEWIDE PROJECTS
DEVELOPMENT CORPORATION

By _____
Kenneth Frahm
President

THE OZ ENTERTAINMENT COMPANY

By _____
Robert B. Kory
Chairman, Board of Directors/Chief
Executive Officer

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LIST OF EXHIBITS

Exhibit A	Park Parcel
Exhibit B	Water Plant Transfer Application
Exhibit C	Water Plant Parcel
Exhibit D	City Notification to HHS
Exhibit E	City Release
Exhibit F	Deed
Schedule 11(e)	Litigation
Schedule 11(f)	Consent Order
Schedule 13	Insurance

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EXHIBIT A

PARK PARCEL

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EXHIBIT B

WATER PLANT TRANSFER APPLICATION

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EXHIBIT C

WATER PLANT PARCEL

EXHIBIT D

CITY NOTIFICATION TO HHS

[CITY OF DESOTO LETTERHEAD]

_____, 2000

The Honorable _____
Secretary
Department of Health and Human Services

Washington, D.C.

Attn: Mr./Mrs. _____
Department of Health and Human Services

Re: Withdrawal of Public Conveyance Application – Sunflower Army Ammunition
Plant, DeSoto, Kansas

Dear Mr./Ms. Secretary:

On behalf of the City of DeSoto (“City”), I am writing to and hereby withdraw the application submitted by City to the Department of Health and Human Services and dated February [17], 1999, a true and correct copy of which is attached hereto, to acquire certain real property located at the former military installation known as the Sunflower Army Ammunition Plant near DeSoto, Kansas, in Johnson County, Kansas.

Thank you for your cooperation.

Very truly yours,

CITY OF DESOTO

EXHIBIT E

CITY RELEASE RELEASE OF RIGHTS

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, including, but not limited to, the execution and performance of that certain Real Estate Acquisition Agreement dated _____, 2000. by and between the City of DeSoto, a local government subdivision of the State of Kansas ("**City**"), the Kansas Statewide Projects Development Corporation ("**KSPDC**") and The OZ Entertainment Company ("**OEC**") (the "**Agreement**"), the conveyance by OEC to City of certain real property and improvements as identified in the Agreement, accompanied by other deliveries as provided in the Agreement as of the Final Closing Date set forth therein ("**Closing Date**"), which are conditions to the validity of this instrument, City does hereby forever release, waive and discharge any and all rights City has or ever obtained in and to the real property and improvements located at the Sunflower Army Ammunition Plant near DeSoto, Kansas, in Johnson County ("**SFAAP**"), other than the property legally described on Exhibit A attached hereto (the "**Donation Property**"), and agrees that, in withdrawing its application to the Federal Department of Health and Human Services to acquire a portion of SFAAP pursuant to the Agreement, City, for itself, and its successors and assigns, shall have no rights in and to SFAAP, other than the Donation Property, and any easements, appurtenances, rights or other hereditaments thereunto belong or in anywise appertaining and that all of its rights with respect to SFAAP are set forth in the Agreement and the transactions described therein.

IN WITNESS WHEREOF, City has executed and delivered this Release of Rights as of the _____ day of _____, 2000.

CITY OF DESOTO

By: _____

Name: _____

Title: _____

EXHIBIT F

DEED

SCHEDULE 11(e)

Litigation

United Tribe of Shawnee Indians v. The United States of America

SCHEDULE 11(f)

Consent Order

SCHEDULE 13

Insurance